

Message Text

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ACTION EB-11

INFO OCT-01 ARA-11 ADP-00 CAB-09 CIAE-00 COME-00 DODE-00

INR-10 NSAE-00 RSC-01 FAA-00 L-03 H-02 SS-15 NSC-10

RSR-01 /074 W

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P 021605Z JUL 73

FM AMEMBASSY BUENOS AIRES

TO SECSTATE WASHDC PRIORITY 2661

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E.O. 11652: N/A

TAGS: ETRN, AR

SUBJECT: US-ARGENTINE CIVAIR PROBLEM

REFS: A) BA-4612 B) BA 4615 C) STATE 118629

1. MORNING JUNE 29, MARPLES OF BRANIFF AND NEGRI OF PAN AMERICAN WERE CALLED TO DNTAC FOR INTERVIEW WITH BRIGADIER PECCIONE WHO IS ALREADY ACTING AS DIRECTOR DNTAC ALTHOUGH NOT YET FORMALLY INSTALLED. PECCIONE TOLD THEM THEY WOULD NOT BE PERMITTED TO BEGIN OPERATING THEIR NEW FREQUENCIES ON JULY 1, AND THAT DURING NEXT 30 DAYS A STUDY WOULD BE MADE TO DETERMINE WHETHER MEMORANDUM OF CONSULTATION IS A VALID AND BINDING AGREEMENT.

2. MARPLES AND NEGRI CAME TO CHANCERY IMMEDIATELY AFTER INTERVIEW AND INFORMED DCM. DCM HAD ALREADY RECEIVED LETTER FROM UNDERSECRETARY PERIE QUOTED IN REF B. CONJUNCTION OF THESE TWO EVENTS MADE IT IMPERATIVE TO CLARIFY U.S. POSITION TO DNTAC. ECM IMMEDIATELY SOUGHT INTERVIEW WITH PECCIONE WHICH WAS GRANTED FOR SAME EVENING.

3. DCM AND COMATT CALLED ON PECCIONE WHO WAS ACCOMPANIED BY DNTAC STAFF LAWYER OVEJERO AND WAS JOINED SHORTLY BY COMODORO WITTE, HEAD, POLICY SECTION, DNTAC. DCM EXPRESSED SERIOUS CONCERN AT HAVING HEARD THAT NEW GOA APPARENTLY HAD DOUBTS

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ABOUT VALIDITY OF MEMORANDUM OF CONSULTATION. SAID THAT USG

CONSIDERED IT A BINDING INTERGOVERNMENTAL AGREEMENT AND WE HAD ALREADY PERFORMED OR WERE PERFORMING OUR PART OF BARGAIN. SAID IT WAS CLEAR THAT PREVIOUS GOA HAD RECOGNIZED IT AS SUCH AND HAD CITED IT IN LEGISLATION AND IN OFFICIAL DOCUMENTS. SAID WE HAD UNDERSTOOD FROM PERIE THAT NEW GOA FELT THAT FOR INTERNAL POLITICAL REASONS IT NEEDED A MAXIMUM OF 30 DAYS ADDITIONAL TIME TO CARRY OUT ITS OBLIGATIONS. WE UNDERSTOOD THIS AND BELIEVED WASHINGTON WOULD UNDERSTAND. HOWEVER, AT END OF THAT TIME WE WOULD EXPECT ARGENTINE END OF BARGAIN TO BE CARRIED OUT.

4. PECCIONE SAID HE WAS VERY MUCH CONCERNED OVER THE PROBLEM AND HAD SPENT ALL DAY ON IT. WITH ASSISTANCE FROM LAWYER, HE EXPLAINED THAT A SPECIAL COMMISSION WAS BEING NAMED TO STUDY WHETHER MEMORANDUM WAS A VALID INTERGOVERNMENTAL AGREEMENT OR SIMPLY A STATEMENT OF INTENT, PERFORMANCE UNDER WHICH WOULD BE SUBJECT TO CONFORMITY WITH ALL NATIONAL LEGISLATION. HE SAID NOTHING HAD BEEN APPROVED BY CONGRESS AND THERE HAD BEEN NO EXCHANGE OF NOTES. IT WAS SIMPLY DESIGNED TO REGULATE A BRANCH OF COMMERCE.

5. DCM SAID USG COULD NOT ACCEPT POSITION THAT THERE WAS ANY LEGITIMATE DOUBT ABOUT THE VALIDITY AND BINDING QUALITY OF THE MEMORANDUM. POINTED OUT MANY INTERGOVERNMENTAL AGREEMENTS ARE MADE BETWEEN EXECUTIVES. SAID FAILURE OF GOA TO ABIDE BY AGREEMENT FREELY NEGOTIATED AND CONCLUDED UNDER DYISTING LEGISLATION WOULD CREATE GRAVE PROBLEM FOR USG.

6. AT THIS POINT PECCIONE GOT RED IN THE FACE, DELIVERED A TRIADE ABOUT THE PERONIST GOVERNMENT ADOPTING A "NATIONALIST AND SOVEREIGN" POLICY, ADDING THAT HE WAS NOT GOING TO PERMIT DOMINATION (IMPOSICIONES) BY ANYONE, LEAST OF ALL THE U.S. DCM REPLIED USG NOT TRYING TO IMPOSE ITS WILL BUT SIMPLY INSISTING ON ARGENTINA CARRYING OUT ITS PART OF NEGOTIATED BARGAIN UNDER WHICH USG HAD CARRIED OUT ITS PART. EMPHASIZED OUR DESIRE FOR GOOD RELATIONS WITH NEW GOVERNMENT BUT INDICATED THIS PROBLEM CARRIED POTENTIAL FOR MUCH MISCHIEF. REMINDED THEM THAT AEROLINEAS DEPENDS ON U.S.-ARGENTINE TRAFFIC MUCH MORE THAN EITHER OF U.S. CARRIERS.

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7. WITTE SAID GOA HAD ALREADY CARRIED OUT PART OF BARGAIN BY ALLOWING U.S. CARRIERS TO OPERATE WITHOUT SEAT LIMITATIONS AND PERMITTING PANAM UNSCHEDULED CARGO FLIGHTS TO OPERATE ON A DE FACTO SCHEDULE. ALSO REPEATED SEVERAL TIMES THAT GOA NOT PLANNING TO DO ANYTHING TO AFFECT EXISTING 16 FREQUENCIES, SPEAKING AS IF THIS WAS CONCESSION ON PART OF GOA.

8. IMPLICIT IN DNTAC PRESENTATION WAS FEELING THAT U.S.

CARRIERS HAD GOTTEN BETTER OF BARGAIN, THAT EXISTING SITUATION IS NOT ONE OF BALANCED BENEFITS, AND THAT ADDITION OF TWO MORE FREQUENCIES WOULD UNBALANCE IT EVEN FARTHER. NO MENTION WAS MADE OF POSSIBILITY OF TEMPORARY AUTHORIZATION.

9. DCM LEFT WITH PECCIONE COPY OF LETTER ALREADY SENT TO PERIE STATING WE UNDERSTOOD HIS REQUEST TO BE FOR MAXIMUM 30 ADDITIONAL DAYS FOR GOA TO COMPLY WITH OBLIGATIONS.

10. IN CLOSING REMARKS, DCM SAID IT WAS EMBASSY'S EARNEST HOPE SITUATION WOULD NOT REVERT TO PAINFUL CONFRONTATION OF LATE 1972 WHICH HAD ONLY GIVEN COMFORT TO THIRD COUNTRY COMPETITORS. TO EMPHASIZE WE MEAN BUSINESS, AND HOPEFULLY TO STIMULATE SOME PRESSURE ON DNTAC FROM AEROLINEAS, WE RECOMMEND DEPARTMENT REQUEST COURT TO POSTPONE FOR 30 DAYS HEARING ON AEROLINEAS APPLICATION DUE JULY 6 (REF C), AND THAT EMBASSY BE AUTHORIZED TO INFORM FONOFF AND DNTAC THAT THIS STEP IS PARALLELED TO THEIR ACTION.
LODGE

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Disposition Approved on Date:
Disposition Authority: worrelsw
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Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
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Disposition Reason:
Disposition Remarks:
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